
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

HUNTER KILLER PRODUCTIONS, INC.,

Plaintiff,

v.

CUE, et al.,

Defendants.

**MEMORANDUM AND DECISION AND
ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
DEFAULT JUDGMENT**

Case No. 2:19-cv-00482-DN

District Judge David Nuffer

Plaintiff Hunter Killer Productions, Inc. seeks entry of default judgment, a permanent injunction, and an award of attorney's fees against Defendants Kathryn Cue and Steven Gailey.¹ Specifically, Plaintiff seeks an award of \$10,000 in statutory damages against each Defendant; a permanent injunction enjoining each Defendant from directly or indirectly infringing Plaintiff's copyright in the motion picture *Hunter Killer*; and an award of costs and attorney's fees.²

Plaintiff's counsel in this case is the same as the plaintiff's counsel in *LHF Productions, Inc. v. Gonzales et al.*, No. 2:17-cv-00103-DN (D. Utah). A complaint³ and motion for default judgment⁴ were filed in *Gonzales*, which are substantively identical to those filed in this case.⁵ The only relevant differences are: the named Plaintiff; the copyrighted work; the named Defendants; and the Defendants against whom default judgment is sought.

¹ Plaintiff's Motion for Default Judgment, Permanent Injunction and Attorney's Fees as to Certain Defendants ("Motion"), [docket no. 38](#), filed July 29, 2020.

² *Id.* at 2.

³ Amended Complaint for Copyright Infringement and Jury Demand, [ECF No. 81](#) in *Gonzales*, filed June 20, 2019.

⁴ Plaintiff's Motion for Default Judgment Permanent Injunction and Attorney's Fees as to Certain Defendants, [ECF No. 96](#), filed June 29, 2020.

⁵ Amended Complaint for Copyright Infringement and Jury Demand, [docket no. 12](#), filed Oct. 9, 2019; Motion, [docket no. 38](#), filed July 29, 2020.

On October 28, 2020, a Memorandum Decision and Order Granting in Part and Denying in Part Motion for Default Judgment was entered in *Gonzales* (“*Gonzales* Memorandum Decision and Order”).⁶ Because this case and *Gonzales* are substantively identical, the *Gonzales* Memorandum Decisions and Order’s analysis, findings of fact, and conclusions of law⁷ are adopted in total and apply to Plaintiff’s Motion in this case.

Defendants were served⁸ with Plaintiff’s Complaint; failed to timely appear and respond; and the Clerk has entered the default of each Defendant.⁹ Additionally, the factual allegations of Plaintiff’s Complaint, which are deemed admitted,¹⁰ demonstrate that each Defendant is liable for willfully infringing¹¹ Plaintiff’s copyright in the motion picture *Hunter Killer* through use of BitTorrent protocols over the Internet.

Therefore, Plaintiff is entitled to entry of a default judgment against Defendants, which includes an award of statutory damages¹² against each Defendant and a permanent injunction¹³ enjoining each Defendant from directly or indirectly infringing Plaintiff’s copyright. Plaintiff is also entitled to an award of its costs and reasonable attorney’s fees.¹⁴ But because an award of \$750 in statutory damages against each Defendant is just under the circumstances,¹⁵ rather than the \$10,000 requested, Plaintiff’s Motion¹⁶ is GRANTED in part and DENIED in part.

⁶ [ECF No. 101](#) in *Gonzales*, filed Oct. 28, 2020 (“*Gonzales* Memorandum Decision and Order”).

⁷ *Id.* at 2-25.

⁸ Proofs of Service, [docket nos. 19](#) and [20](#), filed Oct. 10, 2019.

⁹ Entry of Default Pursuant to FRCP 55(a) as to Certain Defendants, [docket no. 37](#), filed Jan. 14, 2021.

¹⁰ *Tripodi v. Welch*, 810 F.3d 761, 764-65 (10th Cir. 2016).

¹¹ 17 U.S.C. §§ 411(a), 501; *La Resolana Architects, PA v. Reno, Inc.*, 555 F.3d 1171, 1177-1180 (10th Cir. 2009).

¹² 17 U.S.C. § 504(c).

¹³ *Id.* § 502(a).

¹⁴ *Id.* § 505.

¹⁵ *Gonzales* Memorandum Decision and Order at 4-25.

¹⁶ [Docket no. 38](#), filed Jan. 28, 2021.

ORDER

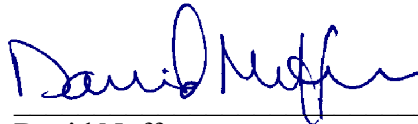
IT IS HEREBY ORDERED that Plaintiff's Motion¹⁷ is GRANTED in part and DENIED in part. Default judgment shall enter in favor of Plaintiff and against each Defendant. The default judgment shall include an award to Plaintiff of \$750 in statutory damages against each Defendant and a permanent injunction enjoining each Defendant from directly or indirectly infringing Plaintiff's copyright in the motion picture *Hunter Killer*. Plaintiff is also entitled to an award of its costs and reasonable attorney's fees, the amount of which shall be determined by subsequent motion.

IT IS FURTHER ORDERED that any motion for attorney's fees must be filed within 14 days after the default judgement's entry.

The Clerk is directed to close the case.

Signed June 24, 2021.

BY THE COURT



David Nuffer
United States District Judge

¹⁷ [Docket no. 36](#), filed July 29, 2020.